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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS
LTD. and PEBBLE LIMITED
PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

No. 3:24-00059-SLG

JOINT MOTION FOR REVISED SCHEDULING ORDER

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NORTHERN DYNASTY MINERALS LTD V. EPA
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Plaintiffs, Northern Dynasty Minerals Ltd. (“Northern Dynasty”) and Pebble Limited Partnership (“Pebble Partnership”) (“Plaintiffs”), and Defendant, the United States Environmental Protection Agency (“EPA”), respectfully request that the Court enter a scheduling order to govern the next stage of proceedings in this matter regarding a potential motion to supplement EPA’s administrative record. In more detail, the parties propose as follows:

1. On March 15, 2024, Plaintiffs filed their Complaint in this case against EPA under the Administrative Procedure Act, challenging EPA’s January 2023 Final Determination Pursuant to Section 404(c) of the Clean Water Act; Pebble Deposit Area, Southwest Alaska. ECF No. 1.

2. EPA filed its Answer to the Complaint on May 20, 2024 (ECF No. 43).

3. On June 7, 2024, Plaintiffs filed a Motion for Leave to Amend and Supplement the Complaint (“Motion to Amend”), seeking, *inter alia*, to add a new claim challenging the United States Army Corps of Engineers’ denial of Pebble Partnership’s permit application under Section 404 of the Clean Water Act. ECF No. 55. EPA opposed Plaintiffs’ Motion to Amend. ECF No. 66. That motion remains pending before the Court.

4. Under Local Rule 16.3(b)(1), EPA’s administrative record was originally due on July 19, 2024. EPA requested and was granted an unopposed extension until August 2, 2024, to serve and file the administrative record in this case. ECF No. 83.

5. On August 2, 2024, EPA filed a certified index of its administrative record with the Court and served copies of the record on Plaintiffs and the Court. ECF Nos. 87, 87-1, 87-

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2. EPA's administrative record contains 40,062 documents, comprising 499,507 pages.

6. Plaintiffs are currently engaged in the process of reviewing the voluminous administrative record submitted by EPA to assess whether they may wish to file a motion seeking to supplement the record.

7. The parties are committed to conferring in good faith to seek to resolve any disputes relating to supplementing the administrative record in this case without engaging in contested motions practice. The parties anticipate that Plaintiffs' review, followed by this conferral process, will take longer than the 21 days provided under Local Rule 16.3(b)(2) to file a motion to supplement the agency record. Accordingly, there is good cause to modify the Court's previously-entered Scheduling Order, ECF No. 65, and the scheduling provisions under Local Civil Rule 16.3(b) and (c) as follows to allow the parties to complete this process and brief a potential motion to supplement:

(a) The parties shall begin conferring regarding potential supplementation of EPA's record by **September 23, 2024**. If the parties reach agreement that either (i) the administrative record does not require supplementation or (ii) the administrative record will be supplemented and Plaintiffs will not file a motion to supplement the record, then the parties will submit a joint motion or status report(s) with the Court on or before **October 25, 2024**, proposing a schedule for further proceedings. If the parties do not reach such an agreement, then briefing of Plaintiff's motion to supplement the record will proceed under the schedule set forth in paragraphs (b) and (c) below.

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(b) The deadline for Plaintiffs to file a motion to supplement the administrative record shall be **November 1, 2024**.

(c) If Plaintiffs file a motion to supplement the administrative record in accordance with paragraph (b), then the deadline for EPA's response to the motion shall be **December 13, 2024**, and the deadline for Plaintiffs' reply shall be **January 10, 2025**.

(d) If Plaintiffs file a motion to supplement the record, then the parties will submit a joint motion or status report(s) **within two weeks** of the Court's ruling on that motion, proposing a schedule for further proceedings.

Dated August 12, 2024

/s/ Keith Bradley

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2024, I filed a true and correct copy of the foregoing document with the Clerk of the Court for the United States District Court of Alaska by using the CM/ECF system. Participants in this Case No. 3:24-cv-00059-SLG who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Keith Bradley
Keith Bradley, *pro hac vice*

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